

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

Paul McCurley, III, individually and on)	Civil Action No. 5:16-cv-00194-JMC
behalf of all similarly situated individuals,)	
)	
Plaintiff,)	
v.)	
)	<u>ORDER</u>
Flowers Foods, Inc. and Derst Baking)	
Company, LLC,)	
)	
Defendants.)	
_____)	

Plaintiff Paul McCurley, III (“Plaintiff”), individually and on behalf of all similarly situated individuals, filed this class and collective action against Defendants Flowers Foods, Inc., and Derst Baking Company, LLC”, (together “Defendants”) alleging violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201–219, the South Carolina Payment of Wages Act, S.C. Code Ann. §§ 41-10-10 to -110 (Supp. 2011), and the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10 to -560 (2014). (ECF No. 1 at 11 ¶ 56–15 ¶ 81.) Plaintiff alleges that he and other distributors of Defendants’ products have been “misclassified as independent contractors” thereby resulting in the denial of “the rights and benefits of employment, including, but not limited to overtime pay.” (*Id.* at 7 ¶ 37.) On October 24, 2016, the court granted Plaintiff’s Motion for Conditional Certification and Judicial Notice (ECF No. 45). (ECF No. 69.)

This matter is before the court as a result of the Joint Stipulation (ECF No. 71) that was filed by the parties and is incorporated by reference. In accordance with this Joint Stipulation, the court **CERTIFIES** the following class: All individuals who, through a contract with Defendants or otherwise, performed or perform as Distributors for Defendants under an

agreement with Derst Baking Company, LLC and who were classified by Defendants as “independent contractors” in Georgia and/or South Carolina at any time from January 20, 2013 to November 14, 2016, and who file a consent to join this action pursuant to 29 U.S.C. § 216(b), except those Distributors who have executed an arbitration agreement or class action waiver. The court next **APPROVES** the Notice and Consent Form (ECF No. 71-1) submitted by the parties and the putative members of the collective action will have sixty days from the date notices are mailed to opt-in to this action. Finally, the court **APPROVES** all remaining agreed upon provisions of the parties’ Joint Stipulation (ECF No. 71).

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

November 14, 2016
Columbia, South Carolina